

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANGEL VERA CAMPOS,

Defendant.

NO: 11-CR-109-RMP

ORDER DENYING MOTION FOR
REDUCTION OF SENTENCE

BEFORE THE COURT is a Motion for Reduction of Sentence filed by the *pro se* Defendant. ECF No. 139. The motion was heard without oral argument. Assistant United States Attorney Tim Ohms filed a response on behalf of the United States. ECF No. 140. The Court has considered the briefing and the file, and is fully informed.

Defendant originally pled guilty to Counts 2, 3, 4, 5, and 6 of the Superseding Indictment in this case, and was sentenced to 135 months imprisonment on Counts 2, 3, 5 and 6, with a 60 month consecutive sentence

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EASTERN DISTRICT OF WASHINGTON ~ 1

1 imposed on Count 4. ECF Nos. 59, 74. Following Defendant's appeal to the Ninth
2 Circuit, the Court of Appeals issued a slip opinion vacating the Defendant's
3 judgment of conviction on only Count 4 of the Superseding Indictment and
4 remanding for further proceedings. ECF No. 98. Defendant then entered into a
5 Settlement Agreement with the United States. ECF No. 134. The stated purpose
6 of the Settlement Agreement was "to reach an agreed resolution as to all matters
7 pending before the Court in the present case." ECF No. 134 at 4. Pursuant to the
8 Settlement Agreement, the parties agreed 1) that the United States would dismiss
9 Count 4 of the Superseding Indictment; and 2) that the parties would recommend a
10 sentence of 135 months on Counts 2, 3, 5, and 6. ECF No. 134 at 4-6. The Court
11 sentenced Defendant to 135 months on Counts 2, 3, 5 and 6. ECF No. 135.

12 Defendant now brings a motion pursuant to 18 U.S.C. § 3582(c)(2), which
13 allows for modification of an imposed term of imprisonment "in the case of a
14 defendant who has been sentenced to a term of imprisonment based on a
15 sentencing range that has been subsequently lowered by the Sentencing
16 Commission" The statute further provides that the Court must consider the
17 sentencing factors set forth in 18 U.S.C. § 3553(a), and that any reduction in
18 sentence must be "consistent with the applicable policy statements issued by the
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1 Sentencing Commission.” 18 U.S.C. § 3582(c)(2).¹ Section 3582(c)(2) provides
2 an exception to the general rule that a court “may not modify a term of
3 imprisonment once it has been imposed.” Section 3582(c).

4 Defendant contends that the Sentencing Commission has altered Section
5 2D1.1 of the United States Sentencing Guidelines such that his base offense level
6 would be reduced by two levels, from 34 to 32. With acceptance of responsibility
7 applied, Defendant’s adjusted offense level would be reduced from 31 to 29.
8 Defendant contends that this change would reduce the low end of his guideline
9 range by 27 months.

10 However, USSG § 2D1.1(c)(3) still provides for a base offense level of 34 in
11 cases involving at least 150 grams but less than 500 grams of Methamphetamine
12 (actual). Thus Defendant’s base offense level remains 34 under current USSG §
13 2D1.1. Defendant has not shown that he was “sentenced to a term of
14 imprisonment based on a sentencing range that has been subsequently lowered by
15 the Sentencing Commission” as necessary to trigger 18 U.S.C. § 3582(c)(2).
16 Because the Defendant has not shown that an exception applies, the Court “may
17 not modify a term of imprisonment once it has been imposed.” 18 U.S.C. §
18 3582(c).

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20 ¹ The relevant policy statement for reductions of terms of imprisonment pursuant
to 18 U.S.C. § 3582(c)(2) is found in USSG § 1B1.10.

1 Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motion for
2 Reduction of Sentence, **ECF No. 139**, is **DENIED**.

3 The District Court Clerk is directed to enter this Order and provide copies to
4 counsel and pro se Defendant.

5 **DATED** this 8th day of July 2014.

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7 *s/ Rosanna Malouf Peterson*
8 ROSANNA MALOUF PETERSON
9 Chief United States District Court Judge
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